

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTONY L. SMITH,

Plaintiff,

vs.

COCA-COLA BOTTLING CO.
OF MID-AMERICA,

Defendant.

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4:04cv3329

MEMORANDUM AND ORDER

This matter is before the court on filing no. 12, the Motion for Default Judgment filed by the plaintiff, Antony L. Smith; and filing no. 13, the Motion to Set Aside Entry of Default filed by the defendant, Coca-Cola Enterprises, Inc., a Delaware corporation, d/b/a (in parts of the Midwest) The Coca-Cola Bottling Company of Mid-America. Upon review of the record and the explanation for the defendant's previous failure to respond to the plaintiff's complaint, filing no. 13 is granted. Therefore, the Clerk's Entry of Default (filing no. 11) previously entered in this case is hereby vacated. The defendant shall answer or otherwise respond to the complaint within twenty (20) days of receipt of this Memorandum and Order. Similarly, filing no. 12, the plaintiff's Motion for Default Judgment, is denied.

THEREFORE, IT IS ORDERED:

1. That filing no. 12, the plaintiff's Motion for Default Judgment, is denied;
2. That filing no. 13, the defendant's Motion to Set Aside Entry of Default, is granted, and filing no. 11 is vacated;
3. That the defendant shall answer or otherwise respond to the complaint within twenty (20) days of receipt of this Memorandum and Order; and
4. That when the defendant answers or otherwise responds to the complaint, the Clerk of Court shall send a scheduling packet to the plaintiff and to counsel for the defendant.

DATED this 8th day of November, 2005.

BY THE COURT:

s/Laurie Smith Camp
Laurie Smith Camp
United States District Judge